

Weekly Summary of Cases National Labor Relations Board Week of September 27-October 1, 2010, W-3280

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Summarized Board Decisions

Arc Bridges, Inc. (13-CA-44627; 355 NLRB No. 199) Gary, IN, September 29, 2010. [HTML] [PDF]

The Board reversed the administrative law judge's finding that the employer did not violate the Act by withholding an annual wage review/increase from its newly unionized employees while continuing the same for its nonunion employees. The Board found that the annual wage review/increase was an established condition of employment and, therefore, that the employer's decision to withhold it was "inherently destructive" of employees' rights. The Board ordered the employer to make the newly unionized employees whole by payment to them of the difference between their actual wages and the wages granted to the nonunion employees.

Charge filed by the American Federation of Professionals. Administrative Law Judge Gerald A. Wacknov issued his decision December 31, 2008. Chairman Liebman and Members Becker and Hayes participated.

Bally's Atlantic City (4-CA-35304; 355 NLRB No. 218) Atlantic City, NJ, September 30, 2010. [HTML] [[PDF] Bally's Park Place, Inc. d/b/a Bally's Atlantic City

The Board reversed the administrative law judge and found that the employer violated the Act by discharging an employee for using 20 minutes of FMLA leave to attend a union rally. The Board found that the employer was unable to prove that it would have discharged the employee, an outspoken union supporter, absent union activity. The Board ordered the employer to offer the employee reinstatement and make whole for any loss of earnings and other benefits.

Charge filed by the International Union, United Automobile, Aerospace and Agricultural Implement Workers of America, UAW. Administrative Law Judge Richard A. Scully issued his decision August 21, 2008. Chairman Liebman and Members Becker and Pearce participated.

Boulder City Hospital, Inc. (28-CA-22283; 355 NLRB No. 203) Boulder City, NV, September 30, 2010. [HTML] [PDF]

The Board agreed with the administrative law judge that the employer violated the Act by interrogating an employee about union activities and, on another occasion, telling the employee that the employer's hospital would close if the employees selected the union as their

representative. The Board also affirmed the judge's finding that the employer violated the Act by failing to use another employee as a per diem employee because of support for the union. However, the Board reversed the judge and found that the employer also violated the Act when it posted a memo about its harassment policy. Member Hayes, dissenting, would affirm the judge's finding that the memo posting was a lawful reminder of a lawful rule.

Charges filed by General Sales Drivers, Delivery Drivers and Helpers and, Representing the Public Sector, Teamsters Union, Local 14, affiliated with the International Brotherhood of Teamsters. Administrative Law Judge William G. Kocol issued his decision June 24, 2009. Chairman Liebman and Members Pearce and Hayes participated.

Carpenters Local 1506, United Brotherhood of Carpenters and Joiners of America (31-CC-2121, et al.; 355 NLRB No. 219) Woodland Hills, CA, September 30, 2010. [HTML] [PDF]

The Board found that the union did not violate the Act by displaying banners proclaiming a "labor dispute" at locations of employers not engaged in a primary labor dispute with the union. The Board relied on its recent decision in *Carpenters Local 1506 (Eliason & Knuth of Arizona)* dismissing an identical allegations regarding similar conduct. Member Hayes dissented, reiterating the views stated in his joint dissent with former Member Schaumber in *Eliason & Knuth* that the display of banners was unlawful under the Act.

Charges filed by Sunstone Hotel Investors, LLC, d/b/a Marriott Warner Center Woodland Hills. Administrative Law Judge Clifford H. Anderson issued his decision January 6, 2005. Members Becker, Pearce and Hayes participated.

Carpenters Locals 184 and 1498 (Grayhawk Development, Inc.) (28-CC-973, et al.; 355 NLRB No. 188) Scottsdale, AZ, September 21, 2010. [HTML] [PDF]

The Board adopted the administrative law judge's finding that the Carpenters Locals did not violate the Act by displaying large banners proclaiming a "labor dispute" at locations associated with several secondary employers. Finding that the unions' conduct was, "for all relevant purposes," the same conduct found lawful in the Board's recent decision in *Carpenters Local No. 1506 (Eliason & Knuth of Arizona, Inc.)* 355 NLRB No. 159 (August 27, 2010), the Board found for the reasons stated in that decision that the Act did not prohibit the banner displays in this case. Member Hayes, dissenting, found that the bannering activity at issue in this case "is essentially the same" as in *Eliason & Knuth* and therefore would find a violation here for the reasons set out in the joint dissent in that case.

Charges filed by Grayhawk Development, Inc. Administrative Law Judge James L. Rose issued his decision January 13, 2005. Members Becker, Pearce, and Hayes participated.

Carwash on Sunset (31-CA-29000 et al., 355 NLRB No. 205) Los Angeles, CA, September 30, 2010. [HTML] [PDF] Autospa Express, Inc. d/b/a Carwash on Sunset

The Board found that the employers, each of which operated a car wash, failed to file a legally sufficient and timely answer to the complaint. The Board noted that it typically shows some

leniency toward parties who are not represented by counsel, but even considering that leniency, the employers' one-paragraph letter failed to respond to the legal and factual allegations in the complaint or to establish good cause for the failure to file a timely answer. In the absence of an adequate answer, the Board granted the General Counsel's motion for default judgment and found that Carwash on Sunset and Bixby Knolls Car Wash violated the Act by transferring employees from one facility to another because of their union activities, resulting in reduced work hours. The Board found that Carwash on Sunset committed multiple additional violations, including interrogating employees about their union activities and discharging employees because they supported the union.

Charges filed by Carwash Workers Organizing Committee, affiliated with United Steel, Paper and Forestry, Rubber, Manufacturing, Energy, Allied-Industrial and Service Workers International Union, AFL-CIO. Chairman Liebman and Members Pearce and Hayes participated.

Castle Hill Health Care Center (22-CA-28152, 28548; 355 NLRB No. 196) Union City, NJ, September 28, 2010. [HTML] [PDF]

The Board agreed with the administrative law judge that the employer violated the Act by either failing to provide or untimely providing the union with relevant information that the union needed during contract negotiations with the employer. This relevant information included requests for: employee overtime hours and work schedules; identification of no-frills employees; the employer's monthly premium cost to provide employee insurance; documents showing the employer's use of agency employees; and OSHA injury and illness reports. The Board agreed with the judge that the employer did not violate the Act by untimely providing the union with Medicaid cost reports because the union failed to show how those reports were relevant to bargaining. The Board also found that the employer violated the Act by implementing a "final offer" during negotiations, at a time when the parties had not reached an impasse. Finally, the Board agreed with the judge that the employer violated the Act when it stopped contributing to the union's pension fund.

Charges filed by SEIU 1199 New Jersey Health Care Union. Administrative Law Judge Mindy E. Landow issued her decision December 14, 2009. Chairman Liebman and Members Becker and Hayes participated.

Center Service System Division (7-CA-46490, et al.; 355 NLRB No. 198) Burton, MI, September 29, 2010. [HTML] [PDF] Center Construction Co., Inc., d/b/a Center Service System Division

The Board adopted the administrative law judge's supplemental decision finding that the employer is liable for net backpay totaling \$126,649.19, divided in roughly equal parts between two discriminatees.

Charge filed by Local 370, United Association of Journeymen and Apprentices of the Plumbing and Pipe Fitting Industry of the United States and Canada, AFL-CIO. Administrative Law Judge Richard A. Scully issued his decision February 17, 2010. Chairman Liebman and Members Becker and Hayes participated.

KGTV (21-CA-38193, 38294; 355 NLRB No. 213) San Diego, CA, September 30, 2010. [HTML] [[PDF] McGraw-Hill Broadcasting Company, Inc., d/b/a KGTV

The Board adopted in part and reversed in part the administrative law judge's decision dismissing allegations that the employer refused to bargain with the union over both its decision to lay off 3 part time employees and the effects of its decision. Regarding the layoff decision, the Board agreed with the judge's dismissal on an alternative rationale: the union failed to request bargaining over the decision in circumstances where its failure was not excusable. Concerning effects bargaining, the Board reversed the judge and found that the employer unlawfully refused to bargain over the effects of its layoff decision, in light of its unilateral change in the parties' prior agreement covering layoffs.

Member Hayes, concurring in part and dissenting in part, agreed with the judge's rationale for dismissal of both allegations: the parties' prior contract established that they had previously reached agreement concerning the subject of layoffs. He disagreed with the majority's finding of a violation because the employer's change in the agreement's terms was not specifically alleged as an unlawful unilateral change.

Charges filed by National Association of Broadcast Employees and Technicians – Communications Workers of America, AFL-CIO. Administrative Law Judge Gregory Z. Meyerson issued his decision October 10, 2008. Chairman Liebman and Members Becker and Hayes participated.

Kingsbury, Inc. (4-CA-36746 et al.; 355 NLRB No. 195) Philadelphia, PA, September 29, 2010. [HTML] [PDF]

The Board adopted the administrative law judges finding that the employer violated the Act when it terminated an employee for engaging in protected concerted activity. The Board also adopted the judge's finding that employees were entitled to a make-whole remedy for the employer's unilateral change violation.

Charges filed by the Kingsbury Shop Employees' Association a/k/a The Shop Committee. Administrative Law Judge David I. Goldman issued his decision April 20, 2010. Chairman Liebman and Members Becker and Pearce participated.

Lansing Automakers Federal Credit Union (7-CA-52115; 355 NLRB No. 221) Lansing, MI, September 30, 2010. [HTML] [PDF]

The Board agreed with the administrative law judge that the Respondent violated the Act by failing and refusing to furnish the Union with requested information. However, due to subsequent joint representation of mootness, the Board deleted from the judge's recommended remedy the requirement that the Respondent provide the information that the Union expressly states it no longer requires.

The charge was filed by Local 459, Office and Professional Employees International Union, AFL-CIO. Administrative Law Judge George Aleman issued his decision January 5, 2010. Chairman Liebman and Members Pearce and Hayes participated.

Lee's Industries, Inc. and Lee's Home Health Services, Inc. and Lee's Companies, Inc. (a single employer) (4-CA-36904; 355 NLRB No. 206) Philadelphia, PA, September 30, 2010. [HTML] [[PDF]

The Board adopted the administrative law judge's findings that the employer violated the Act by discharging an employee for engaging in union and other protected concerted activities.

Charge filed by an Individual. Administrative Law Judge Robert A. Giannasi issued his decision February 25, 2010. Members Becker, Pearce, and Hayes participated.

One Stop Kosher Supermarket, Inc. (29-CA-29865; 355 NLRB No. 201) Brooklyn, NY, September 29, 2010. [HTML] [PDF]

The Board found that the employer violated the Act by failing and refusing, after executing a voluntary recognition agreement, to meet and bargain with the union and furnish the union with requested relevant information.

Charge filed by Local 338, Retail, Wholesale and Department Store Union, United Food and Commercial Workers. Administrative Law Judge Jeffrey D. Wedekind issued his decision May 7, 2010. Members Becker, Pearce, and Hayes participated.

Operating Engineers, Local 3 (Central Concrete Supply, Inc.) (32-CD-172; 355 NLRB No. 200) Oakland, CA, September 29, 2010. [HTML] [PDF]

The Board awarded the disputed work in this Section 10(k) proceeding to employees represented by Teamsters Local 853, rather than to employees represented by Operating Engineers Local Union No. 3. In making this award, the Board determined that its jurisdiction was proper under Section 10(k), finding that there was reasonable cause to believe the Act had been violated and that the parties had no agreed-upon method for voluntary adjustment of the dispute. On the merits of the dispute, the Board relied on the 10(k) factors of employer preference and past practice, and economy and efficiency of operations, in making the award.

Charge filed by Central Concrete Supply, Inc. Members Becker, Pearce, and Hayes participated.

Pittsburg & Midway Coal Mining Company (The) (27-CA-19566-1, 19567-1; 355 NLRB No. 197) Englewood, CO, September 29, 2010. [HTML] [PDF]

The Board found that the employer, the operator of four coal mines, violated the Act by restrictively modifying its bonus plan in response to employees' taking part in contractually

permitted work stoppages called "memorial days." The Board ordered the employer to rescind the unlawful modification and make employees whole. It declined to determine whether the same conduct was tantamount to unlawfully modifying the collective-bargaining agreement itself. The parties waived a hearing before an administrative law judge and requested that the Board resolve the issues based on a stipulated record.

Charges filed by United Mine Workers of America. Chairman Liebman and Members Becker and Pearce participated.

Southwest Regional Council of Carpenters and Carpenters Local 209, et al. (31-CC-02113, et al.; 355 NLRB No. 216) Thousand Oaks, CA, September 30, 2010. [HTML] [PDF]

The Board found that the union did not violate the Act by displaying banners proclaiming a "labor dispute" at locations of employers not engaged in a primary labor dispute with the union. The Board relied on its recent decision in *Carpenters Local 1506 (Eliason & Knuth of Arizona)* dismissing an identical allegations regarding similar conduct. Member Hayes dissented, reiterating the views stated in his joint dissent with former Member Schaumber in *Eliason & Knuth* that the display of banners was unlawful under the Act.

Charges filed by Carignan Construction Company and Shea Properties, LLC. Administrative Law Judge James M. Kennedy issued his decision on February 18, 2004. Members Becker, Pearce and Hayes participated.

Titus Electric Contracting, Inc. (16-CA-21010-2, et al.; 355 NLRB No. 222) Austin, TX, September 30, 2010. [HTML] [PDF]

The Board adopted the administrative law judge's findings that the employer committed a number of unfair labor practices in the wake of a union organizing campaign, including: promulgating and enforcing an overly broad appearance policy; promulgating an overly broad oral no-solicitation policy; threatening to call the police and calling the police on picketers; unlawfully creating the impression that employees' union activities were under surveillance; unlawfully interrogating employees about their union activities; unlawfully discharging an employee; and unlawfully advising employees that it may have to lay employees off if the union continued to file charges against the employer. The Board further adopted the judge's findings that the Respondent did not violate the Act by: threatening to tow picketer's cars; removing a union comment from an employer website; discharging a certain employee; laying off two employees; and refusing to hire certain union applicants for employment. The Board, however, reversed the judge's dismissal of the allegation that the Respondent constructively discharged an employee in a situation in which the employee showed up for work wearing a union shirt, the employer told the employee to go home and remove the shirt, and the employee quit rather than having to remove the shirt. On this issue, the Board reasoned that the employee was presented with a "Hobson's choice" of working or abandoning his Section 7 right to wear the union shirt.

The charges were filed by the International Brotherhood of Electrical Workers Local 520. Administrative Law Judge Pargen Robertson issued his decision January 17, 2003. Chairman Liebman and Members Becker and Pearce participated.

Turtle Bay Resorts, and Benchmark Hospitality, Inc. (37-CA-6827-1; 355 NLRB No. 207) Kahuku, HI, September 30, 2010. [HTML] [PDF]

The Board adopted the administrative law judge's finding that the employers violated the Act by changing the practice of validating parking for union business agents present at the employers' resort for representational purposes. The Board noted that once employees select a representative, representation is a condition of employment that cannot be unilaterally altered – an employer is not free to make unilateral changes that impair a representative's ability to represent employees effectively or impair employees' ability to effectively support their representative. The Board also noted that this was the sole issue remaining in the consolidated complaint proceeding involving these Employers and otherwise resolved in *Turtle Bay Resorts*, 355 NLRB No. 147 (2010), which incorporated by reference the Board's earlier decision in *Turtle Bay Resorts*, 353 NLRB 1242 (2009).

Charges filed by UNITE HERE! Local 5. Administrative Law Judge Mary Miller Cracraft issued her decision August 17, 2009. Chairman Liebman and Members Becker and Pearce participated.

Joe's Painting and its alter ego Joe's Painting, Inc. (6-CA-36647; 355 NLRB No. 214) Coal Center, PA, September 30, 2010. [HTML] [PDF] Gloria J. Verno d/b/a Joe's Painting and its alter ego Joe's Painting, Inc.

The Board granted the Acting General Counsel's motion for default judgment based on the Respondent's failure to file an answer to the complaint.

Charge filed by International Union of Painters and Allied Trades, District Council 57 of Western Pennsylvania. Chairman Liebman and Members Pearce and Hayes participated.

Decisions in cases involving prior rulings by two-member Board

The following cases involve prior rulings by the two-member Board, whose authority to act was rejected by the U.S. Supreme Court decision in *New Process Steel, LP* (June 17, 2010). The new decisions summarized here were reached by a three-member panel of the Board or by the full Board.

County Waste of Ulster, LLC (2-CA-37437, 2-RC-22858; 355 NLRB No. 193) Montgomery and Kingston, NY, September 27, 2010. [HTML] [PDF]

The Board denied the Respondent's motion for reconsideration, rehearing and/or reopening of the Board's August 10, 2010 Decision, Order, and Direction of Second Election, reported at 355 NLRB No. 64. (In its August 10, 2010, decision, the Board adopted the administrative law judge's findings that the Respondent (a) violated the Act by allowing Local 124, R.A.I.S.E., IUJAT, to distribute a Christmas bonus to its employees and (b) engaged in objectionable conduct by granting the bonus. The Board also severed and remanded the grant of bonus violation to the judge to clarify whether he intended to find the unalleged violation and, if so, to apply *Pergament United Sales*, 296 NLRB 333 (1989)). The Board adopted the judge's findings

and recommendation to the extent and for the reasons stated in the underlying Supplemental Decision and Order.

Charges filed by Laborers International Union of North America, Local 108, AFL-CIO, and Local 124, R.A.I.S.E., IUJAT. Chairman Liebman and Members Becker and Pearce participated.

Divi Carina Bay Resort (24-CA-11101, 24-RC-8566; 355 NLRB No. 194) St. Croix, VI, September 28, 2010. [HTML] [PDF] Grapetree Shores, Inc. d/b/a Divi Carina Bay Resort

The Board issued the certification of the union and a notice to show cause why the Board should not grant the General Counsel's Motion for Summary Judgment, returnable Nov. 12.

Charges filed by Virgin Islands Workers Union. Administrative Law Judge James M. Kennedy issued his decision December 17, 2008. Chairman Liebman and Members Becker and Pearce participated.

KSM Industries, Inc. (30-CA-13762 et al.; 355 NLRB No. 220) Germantown, WI, September 30, 2010. [HTML] [PDF]

In this backpay case, the Board agreed with the administrative law judge that: (1) strikers who were unlawfully denied recall or whose recall was delayed did not abandon employment by resigning in order to get money from retirement funds and payments for accrued vacation time; (2) a striker who answered "no" to a questionnaire about interest in being recalled to work did not abandon employment; (3) the General Counsel's method of determining the order of recall and backpay periods for strikers was appropriate; and (4) with one exception, the strikers engaged in reasonable efforts to mitigate backpay. The Board reversed the judge and found that a striker who applied for only one job in a 6-month period did not adequately attempt to mitigate backpay in two quarters of the backpay period.

Charges filed by United Steel, Paper, and Forestry, Rubber, Manufacturing, Energy, Allied Industrial and Service Workers International Union, Local 2-779, AFL-CIO. Administrative Law Judge David I. Goldman issued his supplemental decision September 27, 2007. Chairman Liebman and Members Becker and Pearce participated.

NLS Group (The) (1-CA-39447; 355 NLRB No. 169) Providence, RI, September 28, 2010. [HTML] [PDF] *Northeastern Land Services, Ltd. d/b/a The NLS Group*

The Board reversed the administrative law judge's decision dismissing the complaint. Contrary to the judge, the Board concluded that the Respondent violated the Act by maintaining an overbroad confidentiality provision in its employment contracts. Further, relying on Board precedent establishing that an employer's imposition of discipline pursuant to an unlawfully overbroad rule is necessarily unlawful, the Board additionally concluded that the Respondent violated the Act by terminating the charging party employee for discussing terms of employment with a client, i.e., breaching the above-referenced confidentiality provision.

Charge filed by an Individual. Administrative Law Judge Joel P. Biblowitz issued his decision June 27, 2002. Chairman Liebman and Members Becker and Pearce participated.

Quanta (7-CA-52097; 355 NLRB No. 217) Taylor, MI, September 30, 2010. [HTML] [PDF] Smith Industrial Maintenance Corporation d/b/a Quanta

The Board issued an Order granting the General Counsel's Renewed Motion for Default Judgment. In the absence of an answer to the amended complaint, the Board found that the Respondent violated the Act by failing to adhere to various provisions of its collective-bargaining agreement with the union. In addition, pursuant to additional allegations in the amended complaint that the Respondent failed to answer, the Board found that the Respondent unlawfully caused the termination of several employees and repudiated its contract with the union. In this regard, the Board found that the amended complaint sufficiently pleads constructive discharge, and nothing more is required under the system of notice pleading used by the Board and the courts.

Dissenting in part, Member Hayes disagreed with the Board's decision to grant default judgment as to the constructive discharge allegation. In his view, the alleged length of time between the Respondent's unfair labor practices and the employees' quitting is inconsistent with the allegation of causality. Therefore, Member Hayes stated that it was not clear and unequivocal that the employees quit work because they were confronted with a choice between surrendering their collectively-bargained contract rights or quitting, as Board law requires to establish a "Hobson's Choice" constructive discharge theory.

Charges filed by International Union, United Automobile, Aerospace and Agricultural Implement Workers of America (UAW), AFL-CIO, and its Local 174. Chairman Liebman and Members Becker and Hayes participated.

Racetrack Food Services, Inc. and Casino Food Services, Inc., single employer (4-CA-35158; 355 NLRB No. 204) Bensalem, PA, September 30, 2010. [HTML] [PDF]

The Board agreed with the administrative law judge that the employer violated the Act by failing to respond to the union's information request, which included, among other things, the names, addresses, and telephone numbers of non-unit employees. The judge found that this requested information was relevant to the union's concerns about the potential loss of unit work. The Board also adopted the judge's finding that the employer further violated the Act by closing one of its restaurants on Wednesday and Thursday evenings without first providing the union notice and an opportunity to bargain over the matter.

Charge filed by Unite Here, Local 274. Administrative Law Judge Wallace H. Nations issued his decision July 25, 2008. Chairman Liebman and Members Becker and Hayes participated.

The Board adopted the administrative law judge's decision that Raymond Interior Systems violated the Act by unlawfully assisting the Carpenters Union in obtaining authorization cards by warning its drywall finishing employees that there would be no work for them if they failed to sign with the Carpenters "that day." The Board adopted the judge's finding that these statements by Raymond coerced the drywall finishing employees into signing authorization cards, based on which Raymond granted recognition to the Carpenters as the collective-bargaining representative of those employees. The Board accordingly adopted the judge's finding that Raymond violated the Act by recognizing the Carpenters as the collective-bargaining representative of its drywall finishing employees and that the Carpenters violated the Act by accepting that recognition. In light of those findings, the Board found it unnecessary to pass on the judge's additional findings that Raymond unlawfully recognized the Carpenters and the Carpenters unlawfully accepted recognition.

Charges filed by Southern California Painters and Allied Trades District Council No. 36, International Union of Painters and Allied Trades, AFL-CIO. Administrative Law Judge Burton Litvack issued his decision November 10, 2008. Chairman Liebman and Members Becker and Pearce participated.

White Oak Manor (11-CA-21786; 355 NLRB No. 211) Atlantic City, NJ, September 30, 2010. [HTML] [PDF]

The Board adopted the administrative law judge's finding that the Respondent violated the Act by interrogating and threatening its employees and by discharging one. In agreeing with the judge that the employee's discharge was unlawful, the Board found that photographing of other employees was part of the res gestae of the employee's protected activity in attempting to compel the Respondent to fairly enforce its dress code. The Board also found that the employee's conduct was not sufficiently egregious to be removed from the protection of the Act. In so finding, the Board noted that the Respondent did not establish that it had disseminated or previously enforced a rule against such photography, and that, based on credited testimony, the employee did not take the photograph cited by the Respondent as the basis for discharge.

Charge filed by an Individual. Administrative Law Judge Lawrence W. Cullen issued his decision August 12, 2008. Chairman Liebman and Members Pearce and Hayes participated.

Trump Marina Hotel Casino (4-CA-35334, et al., 355 NLRB No. 208) Atlantic City, NJ, September 30, 2010. [HTML] [PDF] Trump Marina Associates, LLC d/b/a Trump Marina Hotel Casino

The Board adopted the administrative law judge's findings that the Respondent violated the Act and engaged in objectionable election conduct by various interrogations and threats and by warning and suspending a prominent union supporter. The Board also reversed the judge to find one additional threat and did not pass on several other allegations. The Board set aside the election.

Charges and election objections were filed by International Union, United Automobile, Aerospace & Agricultural Implement Workers of America, AFL-CIO. Administrative Law Judge Earl E. Shamwell Jr. issued his decision July 18, 2008. Chairman Liebman and Members Becker and Hayes participated.

Alta Vista Regional Hospital (28-CA-21896, 6518; 355 NLRB No. 212) Las Vegas, NM, September 30, 2010. [HTML] [PDF] San Miguel Hospital Corp. d/b/a Alta Vista Regional Hospital

This case is a refusal-to-bargain in which the Respondent is contesting the union's certification as bargaining representative in the underlying representation proceeding. The Board having considered the postelection representation issues raised by the Respondent, has reviewed the record in light of exceptions and brief, and has adopted the Hearing Officer's findings and recommendations to the extent and for the reasons stated in the March 4, 2008 Decision and Certification of Representative.

Charge filed by District 1199NM, National Union of Hospital and Healthcare Employees. Chairman Liebman and Members Pearce and Hayes.

Trump Plaza Associates d/b/a Trump Plaza Hotel and Casino (4-RC-21263, 4-CA-36217; 355 NLRB No. 202) Atlantic City, NJ, September 29, 2010. [HTML] [PDF]

The Board granted the Acting General Counsel's motion for summary judgment based on a refusal-to-bargain in which the Respondent contested the Union's certification as bargaining representative in the underlying representation proceeding.

Petitioner – International Union, United Automobile, Aerospace & Agricultural Implement Workers of America, AFL-CIO. Chairman Liebman and Members Becker and Pearce participated.

Unpublished Board Decisions in Representation Cases

Hard Rock Holdings LLC d/b/a Hard Rock Hotel and Casino (28-RC-6680) Las Vegas, NV, September 28, 2010. The Board having reviewed the record in light of exceptions and briefs, adopted the Hearing Officer's findings and recommendations, and found that a certification of representative should be issued. Petitioner – International Brotherhood of Teamsters, Local 995. Chairman Liebman and Members Becker and Pearce participated.

C and D Enterprises, Inc., d/b/a C&D Security (4-RC-21636) Philadelphia, PA, September 28, 2010. The Board having reviewed the record in light of exceptions and briefs, adopted the Hearing Officer's findings and recommendations and found that a certification of representative should be issued. Petitioner – United Government Security Officers of America, International Union. Chairman Liebman and Members Becker and Hayes participated.

Cameron International Corporation (21-RD-2869) City of Industry, CA, September 29, 2010. The Board having reviewed the record in light of exceptions and briefs, adopted the Hearing

Officer's findings and recommendations and found that a certification of results of election should be issued. Petitioner – an Individual. Chairman Liebman and Members Becker and Pearce participated.

Citgo Refining and Chemicals Company, LP (16-RC-10965) Corpus Christi, TX, September 27, 2010. Order denying Employer's request for review of the Regional Director's decision and directions of election and request to stay the election. Petitioner – United Steel, Paper and Forestry, Rubber, Manufacturing, Energy, Allied Industrial and Service Workers International Union, AFL-CIO, CLC. Members Becker, Pearce, and Hayes participated.

Santa Fe Protection Services, Inc., and SOC, LLC (15-RC-8720) Ft. Rucker, AL, September 29, 2010. Order denying Petitioner's request for review of the Regional Director's decision and direction of election. Petitioner – International Union, Security, Police and Fire Professionals of America (SPEPA). Chairman Liebman and Members Pearce and Hayes participated.

Security Consultants Group, Inc. (16-RC-10961) Oakland Ridge, TN, September 29, 2010. Order denying Intervenor's request for review of the Regional Director's decision and direction of election. Petitioner – United Government Security Officers of America, International Union. Chairman Liebman and Members Pearce and Hayes participated.

TSL, *LTD* (6-RC-12727) Green Tree and Williamsport, PA, September 29, 2010. The Board having reviewed the record in light of exceptions and briefs, affirmed the Hearing Officer's findings and recommendations and found that a certification of results of election should be issued. Petitioner – General Teamsters, Chauffeurs and Helpers, Local 249, a/w International Brotherhood of Teamsters. Chairman Liebman and Members Becker and Pearce participated.

Willow Pass Healthcare Center, Inc., et al. (32-RC-5647) Concord, Berkeley, San Leandro, CA, September 28, 2010. The Board having reviewed the record in light of exceptions and brief, adopted the Regional Director's findings and recommendations and ordered that the Regional Director open and count ballots. Petitioner – National Union of Healthcare Workers. Chairman Liebman and Members Pearce and Hayes participated.

Decisions of Administrative Law Judges

Pleasant Travel Services, Inc. d/b/a Royal Kona Resort (37-CA-7806, et al.; JD(SF)-38-10) Kailua-Kona, HI. Charges filed by UNITE HERE! Local 5. Administrative Law Judge William L. Schmidt issued his decision September 28, 2010. [HTML] [PDF]

Western Sugar Cooperative, Inc. (27-CA-21421; JD(SF)-39-10) Fort Morgan, CO. Charge filed by an Individual. Administrative Law Judge Gerald A. Wacknov issued his decision September 29, 2010. [HTML] [PDF]

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